DOCUMENT RESUME

ED 178 241 RC 011 668

AUTHOR Benham, William J.
TITLE The Role of Congress in Indian Affairs.
PUB DATE Dec 77
NOTE 58p.

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS American Indian Education; *American Indians; Colonial History (United States); *Federal Indian Relationship; *Federal Legislation; Federal Regulation; *Government Role; *Legislators; *Policy Formation; Political Issues; Public Policy; Self Determination; Treaties; Tribal Sovereignty; Tribes; Trust Responsibility (Government); United States History
IDENTIFIERS Alaskan Native Claims Settlement Act; American Indian Policy Review Commission; Bureau of Indian Affairs; Indian Self Determination Education Assistance Act

ABSTRACT

An examination of past and recent federal legislation affecting American Indians reveals the important role of Congress in developing policy for Indian affairs. The role of Congress inititally seemed directed toward providing a legal means of taking Indian land and other resources for the benefit of non-Indians. Subsequent policy has varied between the conflicting aims of assimilation and separation. The 1970's have seen three major pieces of legislation influencing Indian affairs: the Alaskan Native Claims Settlement Act, the Indian Self-Determination and Education Assistance Act, and the Act creating the American Indian Policy Review Commission. This legislation has been brought about by many events, among them Indian activism and the occupation of Wounded Knee, the emergence of new persons in Congress with backgrounds and interests in Indian affairs, and the concerns of special interest groups and constituents. These Acts will influence future legislation, particularly the settlement of land claims being made by other Indian groups. In the light of Congressional impact on Indian policy, it is vital that persons concerned with Indian affairs work closely with Congress at all times. Appendices contain summaries of federal statutes pertinent to Indian Education, an analysis of Congressional committees serving the BIA, and examples of current legislation of interest to American Indians. (JH)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED178241

THE ROLE OF CONGRESS IN INDIAN AFFAIRS

WILLIAM J. BENHAM
MID-CAREER FELLOW
THE WOODROW WILSON SCHOOL OF
PUBLIC AND INTERNATIONAL AFFAIRS
PRINCETON UNIVERSITY
PRINCETON, N.J. 08540

DECEMBER 1977

RC 011668

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Buck Benham

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

PREFACE

As a participant in the 1977-78 Mid-Career Program for Federal Officials at Princeton University, the author enrolled in Public Affairs 519, "Congress as a Policy Making Institution." In the course, Professor Arnold asked that an area of specialization be chosen and desirably, a final paper be prepared dealing with it.

The author chose Indian Affairs. This choice was based on career involvement with the Department of Interior, Bureau of Indian Affairs. Also as a member of the Creek Tribe, the author has a deep and continuing interest in Indian Affairs.

For this final paper the role of Congress in Indian Affairs was chosen for discussion. Since Article I, Section 3 of the Constitution assigns Congress the power to regulate commerce with foreign nations, among the several states and with Indian tribes, Congress has played the main role in developing policy for Indian Affairs. It is generally known that over 400 treaties or agreements were made and over 4000 statutes have been passed which affect Indians. The purpose of this paper is to examine the importance and impact of Congress in Indian Affairs from the standpoint of some legislative highlights which appear to reveal the Congressional role.

Participation in this class and the development of this information has been particularly rewarding. The depth of knowledge held by Dr. Arnold and his ability to stimulate discussions of issues and topics have made the course of special interest and value.

Finally, the staff and resources of the Firestone Library were of great help.

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
THE PAST	
Treaty Making Period	1
The General Allotment Act	3
The Indian Citizenship Act	3
The Wheeler-Howard Act	4
House Concurrent Resolution 108	4
Summary	5
THE ROLE OF CONGRESS....A Contemporary Look	7
American Indian Policy Review Commission	11
Comments	12
Differing Congressional Approaches	13
Congressional Adoption of Self-Determination	14
Electoral Constraints	17
Active Interest Groups	21
Bureau Resources for Influencing Congress	22
Champions and Opponents	23
Changes in Nature of Policy Area	24
THE ROLE OF CONGRESS....Future Prospects	25
Reorganization of Bureau Education	25
Retirement of Non-Indian Employees of BIA	27
Summary	29
BIBLIOGRAPHY	30

APPENDICES

A. Authorizing Federal Statutes Pertinent to Indian Education, Bureau of Indian Affairs

B. Notes on Congressional Committees Serving the Bureau of Indian Affairs

C. Examples of Current Legislation of Interest to Indian Americans

THE ROLE OF CONGRESS IN INDIAN AFFAIRS

INTRODUCTION

This study is concerned with the role of the Congress in developing policy for those Indian Americans with membership in federally recognized tribes. The particular areas of concern are the contemporary Congressional policy directions, indications for the future and an analysis of forces and factors which appeared to influence this direction. In order to do this, it will be necessary to review the highlights of such policies as they developed over time.

Background information will include a look at the Congressional Acts and the role of Congress in developing policy for Indian Americans in the past. This will be followed by a treatment of the contemporary role and the implications for the future as disclosed by Congressional activities as these policies evolved.

THE PAST

Treaty Making Period

The history of the policies of the United States toward the American Indian begins with the first contacts between Europeans and native Americans. Both the formal and informal actions taken by representatives of the European nations in their relations with Indian groups were governed by custom and experience. The United States followed the pattern of the European colonies in America as precedents in the establishment of its own Indian policies. In the face of the acquisitive instincts and the desire to secure compliance with accepted social and religious practices that have governed Europeans and United States citizens, only the accepted policy that

recognized the right of the Crown and the national government to rule in matters that relate to Indian tribes, has allowed these tribes to continue their separate existence as domestic, independent nations retaining the right to govern themselves. The European nations guaranteed these rights by treaty during the Colonial Period. From 1789 to 1871 the United States continued the practice of treaty making. Many of the treaties made during that time are still in force. The practice was ended in 1871 when Congress no longer recognized Indian tribes as independent nations with whom the United States would make treaties.[1]

Early attitudes toward Indians affected relationships. In 1818, it was said on the floor of Congress in connection with the first appropriation for Indians that they must be civilized or killed. The House Committee on Appropriations in 1818 reported:

> In the present state of our country, one of two things seems to be necessary. Either that those sons of the forest should be mortalized or exterminated.[2]

Evidently the decision was made to civilize as a bill establishing a $10,000 Civilization Fund was passed.

Hunger for land and other resources has been an important cause of many early conflicts between Indian and whites and federal and state governments. Congress passed the Indian Removal Act of 1830 under pressure from the states. The removal policy was justified on the grounds that segregation would end the conflict between the races

---

[1]S. Lyman Tyler, A History of Indian Policy, (Washington, D.C.: Government Printing Office, 1973.) pp. 1-12.

[2]U. S. Congress, Senate. Executive Document 95, 49th Congress. 2d Session. p. 162.

and land would be provided for white settlement in the east. In exchange the Indians would be provided with land in the western territory where they would not be disturbed.[1]

The General Allotment Act

In 1887 Indian land consisted of some 139,000,000 acres west of the Mississippi River where virtually all tribes under the government's protection lived on someshat diminished areas called reservations. The Indian population was about 250,000. At this time advocates for submersion of the varied culture of immigrants into an American way of life were being heard. To attain this conformity it was necessary to destroy Indian cultures which rested not only on different religions and languages but also on tribal organizations and their indigenous systems of communal ownership of land. By dividing the tribal estate among the members, they could gain the benefits of private or individual property. Any unneeded or surplus land would thus be available for white purchase and occupancy. This policy found its expression in the General Allotment Act of 1887 which became the keystone of federal Indian policy until the 1920's.[2]

The Indian Citizenship Act

Congress passed the Indian Citizenship Act in 1924. Under its provisions all non-citizen Indians became citizens of the United States. This Act sought to merge the Indian people into the general citizenry of the country, although actually prior to the passage of

---

[1]Theodore H. Hass, "The legal Aspects of Indian Affairs from 1887 to 1957", The Annals of the American Academy of Political and Social Science. Vol. CCCXI, (May 1957), p. 12.

[2]Ibid. pp. 12-13.

the Act, about two-thirds of the Indians were already citizens.[1] Just prior to this Congress passed the Snyder Act of November 2, 1921 which allowed the expenditure of appropriated funds for Indians without regard to degree of Indian blood, to membership in a federally recognized tribe.[2]

The Wheeler-Howard Act

A most significant research project on Indian affairs was a survey of the social and economic condition of the Indian made by the Institute for Government Research. This was called the Meriam Report. After the issuance of this report in 1928, which was sharply critical of Indian policies, Congress passed the Wheeler-Howard Act in 1934. This Act is also called the Indian Reorganization Act and ended allotment and encouraged the development of Indian reservations. It also provided for the reestablishment of Indian self-government.[3]

House Concurrent Resolution 108

After World War II, sentiment again developed for terminating the federal government's special relationship with Indians. In 1953 House Concurrent Resolution 108 was passed which declared termination to be the official federal policy. It provided that federal supervision should be ended as speedily as possible for Indians in five named states and seven specified tribes located elsewhere.[4]

Senator Watkins of Utah probably enunciated Congressional attitudes

---

[1]Tyler. op. cit. p. 110.

[2]Ibid. p. 247.

[3]Lewis Meriam and Associates, Problems of Indian Administration, (Baltimore: Johns Hopkins Press, 1928.)

[4]Haas, op. cit., p. 22.

of this period when he stated:

> The basic principle enunciated so clearly and approved unanimously by the Senate and House in House Concurrent Resolution 106 of the Eighty-third Congress continues to be the over-all guiding policy of Congress in Indian Affairs. In view of the historic policy of Congress favoring freedom for the Indians, we may well expect future Congresses to continue to endorse the principles that as rapidly as possible we should end the status of Indians as wards of the government and grant them all the rights and perogatives pertaining to American citizenship.[1]

By the early 1960's the policy of termination had been discredited by protests from both Indians and non-Indians who argued that Indians were not ready for complete independence. The new emphasis was placed, by administrations from Kennedy to Nixon, on developing human and natural resources on reservations while allowing Indians to control and administer federal assistance programs free from the threat of termination of their special federal status.[2] Senate Concurrent Resolution 11 was passed on September 11, 1968. This resolution expressed the sense of Congress that American Indians and Alaska native communities should be given freedom and encouragement to develop this maximum potential.[3]

SUMMARY

This review of the past from the late 1780's to the early 1970's

---

[1]Arthur V. Watkins, "Termination of Federal Supervision: The Removal of Restrictions over Indian Property and Person," The Annals of the American Academy of Political and Social Science, CCCXI, (May 1957). p. 55.

[2]Sar A. Levitan, and William B. Johnson. Indian Giving: Federal Programs for Indians, (Baltimore: Johns Hopkins University Press., 1975.) pp. 1-5.

[3]U. S. Congress, Senate, Concurrent Resolution 11, 90th Cong., 2d Sess., September 11, 1965.

reveals that through the role of Congress policies which affect American Indians have undergone dramtic changes. The situation has evolved from Indian tribes being treated with as independent nations to the policy of terminating the federal relationship with Indians. Congressional policy varied between the conflicting aims of assimilation and separation. Social and economic forces and conditions in the past seemed to find expression in policies toward Indians developed by Congress, with Senate Concurrent Resolution 11 expressing the sense of Congress that Indian Americans be given the freedom and encouragement to develop that potential.

THE ROLE OF CONGRESS...

A Contemporary Look

Three major pieces of legislation have been passed in the 1970's that affect Indian affairs. These are the Alaskan Native Claims Settlement Act, The Indian Self-Determination and Education Assistance Act and the Act which created the American Indian Policy Review Commission.

On December 18, 1971 the Alaska Native Claims Settlement Act became law and thereby the newest and perhaps the largest claim made by a group of American Indians was essentially settled.[1] The activities antecedent to the passage of the Act started at the close of the 1950's and lasted through the 1960's. Alaskan natives representing five Indian cultures (Athabascan, Thlingit, Aleut, Eskimo, and Haida) in 1960 filed Aboriginal Land Claims in relationship to the emerging oil and mineral development of the state. This type of claim was unique and virtually halted a number of activities, notably the selection of lands by the State of Alaska given them in the Statehood Act and the development of the large oil reserves on the Artic Shelf. Secretary of Interior Udall halted further development of the oil industry on public lands in Alaska until some type of settlement could be worked out. It took over ten years for the settlement to be completed.

It is noteworthy that the Alaska Native Claims Act has the final sounding tone that it carries as it does indeed provide the basic framework for settling all claims of the present and the future.

---

[1]U. S. Congress, Alaskan Natives Claims Settlement Act. P.L. 92-203, 92d Cong. December 1974.

In essence the Act provides title to Alaskan Natives of some 40 million acres of public domain in Alaska. The interesting part is that the Act requires that Alaskan Natives set up regional corporations under state statutes. The land may be titled to these regional native corporations. The net effect is that the federal land base, such as that represented in the Indian Reservations, is eliminated. This represents a continuation by the Congress of the termination policy regarding land and another Congressional action implying that the reservation approach to Indian Affairs is not desired. It should also be noted that there was a cash settlement of $962.5 million in addition to the 40 million acres of land. The cash settlement was allocated partly to individuals and partly to the regional corporations to be used as they saw fit.[1]

It is probable that the basic policies on which the Alaska Native Claims Settlement Act is based will be important to the Congress as it approaches the settlement of other claims being made by other American Indian groups.

In December of 1974 Congress completed action on the Indian Self-Determination and Education Assistance Act (S1017-P.L. 93-638.) The Act set up administrative machinery to permit Indian tribes to assume control and operation of federal programs carried out on their reservations for their benefit. It also provided for increased activities and authorized federal assistance for construction of public

---

[1]Robert R. Nathan Associates, Inc. "Implementig the Alaska Native Claims Settlement Act." Washington, D.C. April 1972. (Mimeographed.)

schools that educated Indian students.[1]

As signed into law on January 4, 1975, the Act contained the following major provisions:

Title 1 - Indian Self-Determination Act

Directed the Secretary of Interior, upon the request of any Indian tribe, to enter into contracts with tribal organizations to carry out programs administered on Indian reservations by the Bureau of Indian Affairs.

Directed the Secretary of Health, Education and Welfare to enter into similar contracts to carry out health programs administered by the Health, Education and Welfare Department.

Permitted either secretary to decline to enter into contracts under certain circumstances; required him in such a case to explain his reasons to the tribe, assist the proposed contractor in overcoming his objections and provide the tribe with a hearing on his objections, with an opportunity for appeal.

Permitted the secretaries to make grants to tribal organizations to facilitate contracting; made Indian tribes eligible for grants by the Civil Service Commission for training in personnel management.

Limited the duration of contracts to three years; required each contract to contain a provision permitting the appropriate secretary to rescind the contract and resume control of a program if the contractor violated the rights or endangered the health, safety or welfare of any person, of if there was gross negligence or mismanagement

---

[1]U. S. Congress, Indian Self-Determination and Education Assistance Act. P.L. 93-638, 93d Cong., January 4, 1975. p. 1.

in the handling of funds.

Stipulated that the act did not affect the sovereign immunity of Indian tribes from suit or the existing trust responsibility of the United States with respect to Indians.

Title II - Indian Education Assistance Act

Added three new sections to the Johnson-O'Malley Act of 1934, which authorized the Bureau of Indian Affairs to contract with public and other nonprofit organizations for educational, welfare and agricultural assistance to Indians.

The three new sections that were added by S1017:

(1) Required a prospective contractor or education for Indians to submit a plan to the Scretary of Interior that met certain minimum conditions, and provided that if non-Indian students participated in the program, money must be prorated to cover only Indian students;

(2) Required a school district covered by a Johnson-O'Malley contract to cooperate and consult with an elected Indian parents' committee, unless the school board was composed of a majority of Indians;

(3) Authorized Johnson-O'Malley funding for school districts attended by Indian students in federal dormitories.

Required the Secretary of Interior to submit to Congress by October 1, 1975, a report on the Johnson-O'Malley Program.

Authorized $35 million annually in fiscal 1975-79 for public school construction, acquisition or renovation in school districts on or near Indian reservations with Indian enrollment.

Required the Secretary of Interior to spend at least 75 per cent of such funds on projects that would be eligible for assistance under

the impact aid program (paid to school districts in behalf of students whose parents live and/or work on federal property).

Required the Secretary to spend no morethan 25 per cent of such funds on former private schools taken over by Indian tribes.[1]

The legislative history notes:

S 1017 was reported by the Senate Interior and Insular Affairs Committee March 28 (S Rept 93-762) and passed by the Senate by voice vote April 1.

The House Interior and Insular Affairs Committee, in reporting the bill December 16 (H Rept 93 1600), deleted several Senate provisions, including a youth intern program and a program of advanced training for Indian educators.

The House passed the bill as reported by voice vote December 19. The Senate agreed to the House amendments by voice vote the same day, clearing the bill for the White House.[2]

American Indian Policy Review Commission

On December 18 Congress completed action on a bill (SJ Res. 133 P.L. 93-580) to create an American Indian Policy Review Commission consisting of three Senators, three Representatives and five Indians to undertake a comprehensive study of the conduct of Indian Affairs. The Commission was to expire six months after submission of its final report to Congress but no later than June 30, 1977, with

---

[1]Congressional Quarterly, "93rd Congress 1st Sess., 1974. Vol. XXX. p. 673.

[2]Ibid. p. 673-4.

$2.5 million authorized for the study.[1]

The Senate passed S. J. Res. 133 (S. Rept. 93-594) December 5, 1973 and the House passed it on November 19, 1974, after substituting the text of its own version (B J Res. 1117-H. Rept 93-1420). Final action came when the House agreed to amendmants approved by the Senate on December 16, 1974.[2]

Comments

In commenting on the Indian Self-Determination Act, significant remarks were made by Henry M. Jackson, Chairman of the Senate Committee on Interior and Insular Affairs. "What this means to the Indian community," Senator Jackson (D. Wash.) said on December 19, "is that the heavy hand of paternalizm which has dominated the lives and affairs of Indian people can now be broken." Others hailed this Act as one of the most significant pieces of Indian legislation since the Indian Reorganization Act of 1934 which ended allotment of Indian lands, encouraged tribal self-government and sought to improve Indian economic conditions.[3] The American Indian Policy Review Commission Study was to be the most far-reaching review of Indian programs since the one conducted for the Interior Department by Lewis Meriam in the 1920's.[4]

---

[1]U. S. Congress, Joint Resolution, P. L. 93-580, 93d. Cong., January 2, 1975. p. 1.

[2]Congressional Quarterly, op. cit. p. 674.

[3]Congressional Quarterly, op. cit. p. 672.

[4]Ibid., p. 674.

The true meaning of the Self-Determination Act will perhaps come to light as its implementation unfolds. Informally, many Indians and Indian groups have expressed the belief that when carried to its logical conclusion, the Act means continuation of the termination policy. This feeling is in evidence even though there are regulations clearly stating the right to retrocession once a tribe has assumed control over a program. Others have written at length about the meaning of the Act and think that the regulations mean more government control over Indian affairs.[1]

Differing Congressional Approaches

In the past, as well as the present, Congressional interest in Indian legislation tends to divide broadly between east and west. Exceptions appear in eastern states, such as Minnesota, where there was significant Indian population. There are further exceptions in particular states in the west when a bill has significant local interest. The non-Indian vote tends to be of more local political significance than the Indian vote.

It is also evident that party politics tend to have little significance on Indian bills historically, as well as presently. Also, the chairmen and senior members of the Indian Affairs Committees in both the House and Senate have usually wielded a strong influence regardless of party. The vote on controversial bills have been along regional rather than party lines.

---

[1]Lawrence B. Russel and Ronald L. Trosper, "Title I of the Indian Self-Determination and Education Assistance Act of 1975."(mimeographed).

Fenno's intensive study of Congressmen in committees appears to bear out this analysis.[1]

Congressional Adoption of Self-Determination

Any analysis of the reason for the Congressional enactment of P.L. 93-638, the Self-Determination Act and P.L. 580, to establish the American Indian Policy Review Commission, must recognize the political consequences of other happenings. The early 1970's were turbulent in Indian affairs. Much national attention was captured by events such as the ten day occupation of the Bureau of Indian office building in Washington, D. C. in 1972 by members of the American Indian Movement. They succeeded in turning national and world attention to the allegations of mistreatment of American Indians by the national government. The American Indian Movement kept the spotlight by occupying Wounded Knee South Dakota for 70 days in 1973. Attention was focused on Indian affaris in a dramatic way. What Congress had or had not done was magnified by these events.

In part, both the Self-Determination Act and the formation of the Indian Policy Review Commission were in response to earlier initiatives taken by the Senate. The Senate Subcommittee on Indian Education of the Committee on Labor and Public Welfare completed in 1969 a review of Indian students enrolled in schools of all types. The report of this Committee was entitled Indian Education, A National Tragedy, A National Challenge. The Subcommittee was headed by Senator Robert Kennedy and after his death, Senator Edward Kennedy. The Subcommittee

---

[1]Richard F. Fenno, Congressmen in Committee, (Boston: Little, Brown and Co., 1973.) pp. V-302.

held exhaustive hearings and dramatized the need for remedial action.[1]

New persons came on the Congressional scene with backgrounds and interests in Indian Affaris. Foremost among these was James Abourezk, a Democrat whose parents had owned and operated an Indian trading post on one of the Sioux reservations. Senator Abourezk brought ideas and feelings developed over a lifetime to his new role as Chairman of the Subcommittee on Indian Affairs of the Full Committee on Interior and Insular Affairs. The professional staff member for this Committee was Forrest J. Gerard, a member of the Blackfoot Tribe. As a side note, on September 15, 1977 Mr. Gerard was confirmed as Assistant Secretary of Interior for Indian Affairs. In the House of Representatives, the Chairman of the Subcommittee on Indian Affairs of the Full Committee on Interior and Insular Affairs employed as a Committee staff member, Mr. Frank Ducheneaux, an attorney and a member of the Cheyene River Sioux Tribe.

In 1974, the Supreme Court rendered a decision that Indian preference in employment as practiced by the Bureau of Indian Affairs, Department of Interior and the Indian Health Service, Department of Health, Education and Welfare, whould extend to all aspects of employment---not just initial hiring. This brought the members of the Interior Committees in both Houses under intensive pressure from employee organizations for remediation of this condition. Most importantly, it also signalled the feeling of the High Court that Indian

---

[1]U. S. Congress, Committee on Labor and Public Welfare, Special Subcommittee on Indian Education, Indian Education, A National Tragedy, A National Challenge. 5 Rept. No. 91-501, 91st Cong. 1st Sess. 1969.

people should be given a greater opportunity. Self-determination legislation and the establishment of an American Indian Policy Review Commission are the logical outgrowth.

With new faces and forces in Indian Affairs and a recognition of the varied policies which had been tried, Congress decided to take the bold step of passing the Self-Determination Act. The strategy seemed to be that for the first time in our nation's history the Indian people would have the chance to assume the mantle of responsibility for their own progress. This seemed to take precedence over saving funds. If tribes determined to provide services for themselves, the federal cost of contracting such services would be higher. This seemed to have been recognized by Senator Paul Fannin of Arizona who was the ranking minority member of the Committee on Interior and Insular Affairs.

In Senator Fannin's "Additional Views" in the Report of this Committee, he expressed the belief that the federal Government should bear all the costs of serving Indians and that states should be relieved of such responsibility.[1] Arizona's Indian population is about 100,000, second only to Oklahoma in total number of Indian Americans in the state.

At the same time I feel it was recognized that few individuals or groups have self-determination in the fullest sense. Maximum freedom is generally enjoyed by those with adequate resources to determine their own destiny. When an individual or a group, such as

---

[1]U.S. Congress, Senate, Report of the Committee on Interior and Insular Affairs, Together with Additional Views to Accompany S. 1017. 93d Cong., 2d Sess. Feb. 7, 1974. pp. 33-37. Report No. 93-682.

an Indian tribe, is economically dependent, the degree of self-determination is lessened. This is the position of most Indian tribes.

Even in view of factors and conditions such as these, the leadership in the Committees seemed to feel that it was time for the Indian people to control their own destinies to the extent possible.

Electoral Contraints

The possible effects of electoral constraints show up in the efforts of the American Indian Policy Review Commission. Public Law 93-580 which established the Commission provided that it should have eleven members. Three members of the Senate with two from the majority party and one from the minority party to be appointed by the President Pro-tempore of the Senate. Three members from the House of Representatives with two from the majority party and one from the minority party to be appointed by the Speaker of the House. These combined with five Indian members made up the Commission.[1]

The members of the Commission from the Senate and House reflected the western influence in Indian Affairs: Senator James Abourezk, South Dakota, Chairman, Congressman Lloyd Meeds, Washington, Vice-Chairman, Senator Mark Hatfield, Oregon, Senator Lee Metcalf, Montana, Congressman Sidney Yates, Illinois and Congressman Don Young, Alaska. All except Congressman Sidney Yates were members of either the Senate or House Interior and Insular Affairs Committees. Congressman Yates is Chairman of the Interior Subcommittee of the House Appropriation Committee.

---

[1] P. L. 93-580. op. cit., p. 1.

The final report of this Commission consists of thirteen volumes. On May 17, 1977 Chairman Abourezk submitted the report to Vice-President Wlater F. Mondale for the United States Senate and to Speaker Thomas P. O'Neil for the House of Representatives. Chairman Abourezk noted that any recommendations involving the enactment of legislation would be referred to the appropriate study committees. Also, that such committees should report thereon within two years. He urged early implementation of the Commission's recommendations to assure that the federal goverrment's responsibility is met.[1]

In 1976 Congressman Meeds was re-elected with a slim margin. The Pacific Northwest has been the scene of bitter controversy over Indian fishing rights. Mr. Meeds was Chairman of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. Following his re-election, he was no longer active on this Subcommittee. Because no one wanted the Chairmanship of the Indian Affairs Subcommittee, and to make the Subcommittee membership more attractive, Interior and Insular Affairs Committee Chairman Morris Udall merged jurisdiction over Indian Affairs with another jurisdiction. Thus the decision was made to create a Subcommittee on Indian Affairs and Public Lands.[2] Also, in regard to the American Indian Policy Review Commission, Congressman Meeds, as Commission Vice-Chairman, made a separate report of dissenting views to accompany the final report.

---

[1]U. S. Congress, American Indian Policy Review Commission, Final Report, Vo. 1, (Washington, D. C.: Government Printing Office, 1977). p. III.

[2]National Congress of American Indians, U. S. Congress Handbook. (Washington, D.C.: Barbara Fullen, 1977). pp. 119.

It is my feeling that his views represent a philosophic and/or political view shared widely in Congress augmented or brought to the fore by electoral constraints present. I feel that such views will gain more prominence as the recommendations of the Commission are discussed in the next two years. There are other political factors which seem to make this likely.

Congressman Meeds' views were that the majority report of the Commission was the product of one-sided advocacy in favor of American Indian tribes. He felt that the interests of the United States, the states, and non-Indian citizens, if considered at all, were largely ignored. He noted that one Commission Task Force Report would require the return to Indian possession and jurisdiction large parts of California, Oregon, Nebraska, North Dakota, South Dakota and Oklahoma. He stated that despite contemporary litigation most Americans are justified in believing that 400 years have been sufficient to quiet title to the Continent. He further stated that as a first principle the Commission assumed the resolution of all contemporary legal and policy issues in favor of Indian tribes.[1]

In an answer to this statement, Chairman of the Commission, Senator Abourezk stated his belief that Congressman Meeds' dissent advocated the extinction or severe limitation of the time-tested doctrines of tribal sovereignty, jurisdiction and trust status. He felt this would do away with the basic foundation upon which the structure of

---

[1]U. S. Congress, American Indian Review Commission, op. cit., pp. 571-612.

federal-Indian relationships have stood and continue to stand.[1]

These diverse opinions show that the views of Congress concerning policies to guide American Indian relationships are, as in the past, widespread. Also, electoral constraints or aspects are likely to assume greater importance in Congress as the Committees discuss the Commission Report. No doubt the Congressional delegations from the states mentioned by Congressman Meeds will take great interest in these proceedings.

At the same time, national attention is being given to land claims in the east. Eastern tribes are claiming large tracks of land in Maine, Connecticut, Massachusetts, New York and Rhode Island. The new Assistant Secretary for Indian Affairs, Forrest Gerard commented on the increasing hostility toward Indians from the Congress where the most serious backlash ever faced is being confroned.[2] Mr. Gerard said in a recent interview:

> "we need a solution to temper the attitudes of eastern Congressmen, who have certainly faced new problems because of land claims," he said. "For years they have looked on Indians as a western problem as they considered bussing a southern problem. Now suddenly it isn't that way anymore and they are not happy about it."[3]

This serves to illustrate that Congressional interest and participation in Indian affairs will be greater and more widespread in the future. This should have much effect on the study of the American

---

[1]U. S. Congress, American Indian Review Commission, op. cit., pp. 615-617.

[2]New York Times, 1 November, 1977. p. 16.

[3]Ibid. p. 16.

Indian Policy Review Commission recommendations in the next two years, as well as all aspects of Indian affairs. Constituents are upset about the status of their homes and businesses. Such concerns will no doubt become a focus for Congressional efforts in the development of policies for American Indians. This is true as it is generally recognized that the Interior Committees seek to be responsive to constituents, to conciliate non-western members, and to rate their success by their ability to get legislation passed.[1]

Active Interest Groups

There are several interest groups active in the area of Indian affairs. The two most prominent in terms of national Indian organizations are the National Congress of American Indians (NCAI) and the National Tribal Chairmen's Association (NTCA). Any American Indian can belong to the National Congress of American Indians regardless of whether they belong to a federally-recognized tribe or where they live. Conversely, the National Tribal Chairmen's Association is made up of the elected Chairmen of federally recognized tribes who, by and large, are from reservations.

Thus their interests are varied. Tribes seeking federal recognition generally have done this through the NCAI. This organization has also represented urban Indians across the country. The NTCA keeps its focus mainly on the federal programs for reservation Indians.

Both organizations have their main offices in Washington, D.C. and both work with Congressional delegations on Indian matters.

---

[1] Fenno, op. cit., pp. 260-261.

In terms of impact, the NCAI seemed to have greater influence in the establishment of the American Indian Policy Review Commission and the report of this group. The Past-President of the National Tribal Chairmen's Association stated frequently that the work of this Commission did not represent reservation interests. Indications are that the new President of NTCA will work more closely with NCAI and probably the Commission. However, too often the Indian voice is a divided one.

At the same time, non-Indian farmers, ranchers, water-users businessmen and others on or near the reservations have a definite interest in Indian affairs. In states such as North and South Dakota this influence has been great in the past in working with Congressional delegations in their own interests.

Bureau Resources for Influencing Congress

It appears that the main resources that representatives of the Bureau of Indian Affairs have for influencing Congress are persuasion, the possibility of a veto, and Congressional knowledge that the Bureau implements legislation enacted. Persuasion appears to be particularly effective when representatives of tribes and national Indian interest groups join the Bureau in the process.

Additionaly, the knowledge is held by Congressmen that if the Agency makes a strong appeal for a veto, the President might heed the request. Also, the realization on the part of Congress that actual implementation of the bill is the responsibility of the Agency. The Agency has some discretionary authority on expenditures which allows the Agency to determine timing of expenditures and the amount of funds

to be spent. This is a definite resource for influencing Congress.

Champions and Opponents

During the last century the members of Congress who were the champions of policies such as Indian rights were often from the eastern part of the United States. These members, generally, did not have Indian constituents but pressed for a fair treatment for Indian Americans. In this century the champions have tended to come from the western states and the leaders have become champions after they assumed a leadership role on a Congression al committee serving Indians.

This is somewhat paradoxical. Often there was a possible conflict of interest as they served in this leadership role. To illustrate, Wayne Aspinall, Chairman of the Interior Committee of the House of Representatives came from a district with few Indians. Yet he had as his constitutency many companies which utilized resources found on Indian land. Many feel that his strong leadership benefitted Indian Americans despite the varied interests he represented.

On the other hand, many felt that in terms of policy initiatives the former head staff member, Mr. Jim Gambell of the Subcommittee on Indian Affairs of the Full Senate Committee on Interior and Insular Affairs, was the leading proponent of termination. Evidently he felt that termination was the real answer and he endeavored to keep the efforts of the Subcommittee consistent with this view. His retirement was generally welcomed by Indian Americans. This illustrates the strategic role played by staff members.

Changes in Nature of Policy Area

As a review of the history of our country depicts, the role of Congress in developing policy for American Indians initially seemed to be directed toward providing a legal means of divesting Indians of their land and other resources for the benefit of non-Indians. It seems that as the United States has assumed the role of a world leader and as the aspirations of under-developed countries has emerged, Congress seems to have realized that America's treatment of the Indian people has been far from exemplary. Most importantly it appears there is a growing appreciation that Indian progress must develop in the context of self-determination.

The true test of the strength of this Congressional commitment to the policies of self-determination will come when again the interests of non-Indians are endangered or in the amount of funds Congress will be willing to appropriate to make possible the programs that Indian tribes will determine as desirable. If policy, fiscal and other constraints prevent such self-determination or if the limits within which self-determination will be carried out are not defined, then further disillusionment for Indian Americans will be the result.

THE ROLE OF CONGRESS....

Future Prospects

During the next two years it is anticipated that studied attention will be given the manifold recommendations of the American Indian Policy Review Commission. In the committee process Congress will determine its role in enacting legislation to implement the over 200 recommendations to develop policy for Indian Americans. In addition to the landmark legislation discussed earlier, two other pending proposals could have a pronounced effect on Indian policy. One involves the reorganization of Bureau Education and the other, the retirement of non-Indian employees of the Bureau.

Reorganization of Bureau Education

On September 16, 1977 Mr. Michael Blouin, Chairman, Subcommittee on Indian Education of the Committee on Education and Labor of the House of Representatives introduced H. R. 9157 for himself and Mr. Albert Quie, ranking minority member of the Committee. The purpose of the Bill is to amend Public law 874 of the Eighty-first Congress and to provide improvements in the delivery of other educational services for Indians.[1] The Bill was referred to the Committee on Education and Labor.

One effect of the Bill would be to separate Education from the other activities of the Bureau. It would have the Director of

---

[1]U. S. Congress, House, A Bill to Amend Public Law 874, Eighty-first Congress, to Provide for the Basic Education of Indian Children, to Provide Improvements in the Delivery of Other Education Services, and for Other Purposes, H. R. 9157. 95th Cong., 2d Sess. 1977.

Education reporting to the Assistant Secretary for Indian Affairs. All Bureau educational activities would be under the supervision of the head of Education by legislative direction. At the present time education at the field level is headed by a generalist who has responsibility for working with tribes to coordinate all socio-economic programs. The Assistant Secretary for Indian Affairs met with the Committee and asked that he be allowed to work with the Indian community and do any reorganization of activities rather than have it prescribed by legislation.[1]

A question arises concerning the desirability of freezing into law organizational arrangements for a program such as education. It is generally recognized that such an arrangement would make it difficult to keep pace with rapidly changing conditions and also, would likely stifle the initiative of employees.

The specialized concerns of this Committee is reflected in the legislation proposed. As Fenno reported the individual goals of Education and Labor Committee members no doubt continue to reflect a strong personal interest in their Committee's subject matter and working for good public policy.[2] Such interest is shown by the activity of this Committee since 1975 when it assumed responsibility for

---

[1]Forrest Gerard, "Statement before the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor, U. S. House of Representatives Oversight Hearings on Reorganization." Sept. 20, 1977. pp. 1-13.

[2]Fenno. op. cit. p. 16.

education in the Bureau of Indian Affairs. The Committee has had three extensive over-sight hearings and the members and staff have traveled throughout Indian country. Such specialized interest could result in legislation which would not be acceptable to tribal officials as it would not meet their concept of self-determination. This is true because self-determination has not been defined and tribal leaders appear convinced, in the absence of a definition, that it covers everything. There appears little doubt that Committee members are aware of this. An analysis would be that the Committee might be taking this action to spur reorganization of Indian Education by the new Assistant Secretary. No analysis would be complete without noting that such interest could greatly benefit the policy direction of American Indian affairs in time.

By all means, because of the national interests of this Committee it would appear desirable for Indian Education to relate more closely to other national education efforts. This should include closer relationships with national educational organizations of all types by Bureau personnel, as well as tribal employees in education.

Retirement of Non-Indian Employees of BIA

There is pending in the Senate, Bill 666 and in the House companion legislation H. R. 4153, which involve non-Indian retirement and Indian preference for employees of the Bureau of Indian Affairs and Indian Health Service. Since Indians have preference in all aspects of employment with the Bureau of Indian Affairs, these bills would facilitate the retirement of non-Indian employees at an early age without loss of benefits.

The Senate bill was unanimously approved by the senate Subcommittee on Civil Services on October 14, 1977 and was forwarded to the Full Government Affairs Committee.[1] Early action on the bill is expected from the HousePost Office and Civil Service Committees.

This legislation appears to have wide support throughout Congress and its passage is expected. This poses some problems for operations if there is immediate widespread retirement of some of the key Bureau personnel.

On the other hand, there has been a gradual Indianization of the Bureau of Indian Affairs until most top positions in the Washington and Area Offices are occupied by Indians. Also, it is significant that key assistants to Congressional committees handling the Self-Determination Act were Indian. Little attention has been paid this development and it is suggested that having the key positions manned by Indians has special meaning for policy development. It is noteworthy that the government has sided with the Indians in the land claim being made in the State of Maine.[1] The policy of "Indian Advocacy" which the case of maine represents, is due in some degree to Indians serving in key positions in both the executive and legislative branches.

In what appears to at first glance to be cynicism, Congressman Jack Cunningham, age 33, newly elected to the House from the state

---

[1]U. S. Congress, Senate, A Bill to Allow Federal Employment Preference to Certain Employees Adversely Affected by the Application of Federal Laws Allowing Preference to Indians. S. 666. 95th Cong. 1st Sess. 1977.

[2]Stuart Taylor, "Indians on the Lawpath," The New Republic, April 30, 1977. pp. 16-31.

of Washington, has introduced a bill, "Native Americans Equal Opportunity Act."[1] The stated purpose of the bill is to abrogate all treaties with Indian tribes and to begin the dissolution of Indian Affairs as an entity in the United States Government. Considering the recently passed Indian Self-Determination Act, it is unlikely that the bill will pass. It is important, however, to note that Congressman Cunningham is from the Pacific Northwest where Congressman Meeds, a member of the American Indian Policy Review Commission, and one who previously backed Indian fishing rights, had a difficult time getting reelected. Congressman Cunningham is deadly serious about his bill and believes that it is time to settle Indian issues and fully assimilate Indians into thesocial fabric of the country.

Summary

It is not my purpose to make value judgements. Rather, the key point to be made is that these bills illustrate the Congressional role in developing policy for Indian affairs. Not only are the directions of efforts determined by the Congress by the programs it approves through the appropriations process, but efforts are afoot to extend this influence. In one instance it would tell the kind of organization to be employed to carry out the programs, in the other instance it would move to assure that the Bureau of Indian Affairs and Indian Health Service would be manned by an all-Indian work force in the near future. In addition, an attempt is being made to change the status of Indian tribes. Such efforts make it vital that persons involved in the endeavor work closely with the Congress at all times.

---

[1]Center for Applied Linguistics, Conference on American Indian Languages Clearinghouse Newsletter. Vol. 5, No. 5 (Nov. 1977.) pp. 8-5

BIBLIOGRAPHY

Books

Congress of American Indians, U. S. Congress Handbook. (Washington, D. C.: Barbara Pullen. 1977). pp. 1-120.

DeLoria, Vine, Jr., Custer Died for your Sins. (New York: Avon Books, 1969). pp. 9-272.

Fenno, Richard F., Congressmen in Committee. (Boston: Little, Brown and Company, 1973). v-302.

Levitan, Sar A. and Johnson, William B., Indian Giving - Federal Programs for Indians. (Baltimore: Johns Hopkins Press, 1975). pp. v-83.

Meriam, Lewis and Associates, The Problem of Indian Administration. (Baltimore: Johns Hopkins Press. 1928).

Oswalt, Wendell H., This Land was Theirs. (New York: John Wiley and Sons, 1973). pp. vii-617.

Prucha, Francis Paul, American Indian Policy in Crisis: Christian Reformers and the Indian 1865-1900. (Norman: University of Oklahoma Press, 1973). pp. V-456.

Sorkin, Alan L., American Indians and Federal Aid. (Washington, D.C.: The Brookings Institution, 1971). pp. vii-231.

Taylor, Theodore W., The States and Their Indian Citizens. (Washington, D. C.: U. S. Government Printing Office, 1972). pp. V-307.

Tyler, S. Lyman, A History of Indian Policy. (Washington, D.C.: U.S. Government Printing Office, 1973). pp. V-328.

Public Documents

U. S. Congress, American Indian Policy Review Commission, Final Report, Vol. 1 (Washington, D.C.: U. S. Government Printing Office, 1977). pp. III - 624.

U. S. Congress, American Indian Policy Review Commission, Final Report Task Force Three: Federal Administration of Indian Affairs. (Washington, D.C.: U.X. Government Printing Office, 1977). pp. III - 232.

U.S. Congress, Indian Self-Determination and Education Assistance Act. p. l. 93-638. 93d Cong. 1975. pp. 1-15.

U.S. Congress, Joint Resolution to Establish American Indian Policy Review Commission, P. L. 93-580. 93d Cong. 1975.

U.S. Congress, House, A Bill to Amend Public Law 874, Eighty-first Congress, to Provide for the Basic Education of Indian Children, to Provide Improvements in the Delivery of Other Educational Services for Indians and Other Purposes. H.R. 9157. 95th Cong. 1st Sess. 1977.

U.S. Congress, House. Indian Self-Determination and Education Assistance Act. 93d Cong. 2d Sess. 1974.

U.S. Congress, House. Indian Self-Determination and Education Assistance Act - Hearings before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. 93d Cong., 2d Sess. 1974.

U.S. Congress, House. Providing for the Establishment of the American Indian Policy Review Commission. Rept. No. 93-1420. 93d Cong. 2d Sess. 1974.

U.S. Congress, House. Oversight Hearings on Laws Affecting Indian Education: Hearings before the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor. 94th Cong. 1st Sess. 1975.

U.S. Congress, Senate. A Bill to Allow Employment Preference to Certain Employees who are not entitled to the Benefits of Employment Preference to Indians. S666. 95th Cong. 1st Sess. 1977.

U.S. Congress, Senate, Alaskan Natives Claims Settlement Act. P.L. 92-203. 92d Cong. 1974.

U.S. Congress, Senate. American Indian Policy Review Commission. Rept. No. 93-594. 93d Cong. 1st Sess. 1973.

U.S. Congress, Senate, Committee on Labor and Public Welfare Special Subcommittee on Indian Education. Indian Education: A National Tragedy, A Nation Challenge. S. Rept. 91-501. 91st Cong. 1st Sess. 1969.

U.S. Congress, Senate, Concurrent Resolution 11. 90th Cong. 2d Sess. September 11, 1965.

U.S. Congress, Senate, Establishment of the American Indian Policy Review Commission-Hearings before Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. 93d Cong. 1st Sess., 1973.

U.S. Congress. Senate. Executive Document 95. 49th Cong. 2d Sess. p. 162.

U.S. Congress. Senate. Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs on Rules and Regulations to Implement P.L. 93-638. 94th Cong., 1st Sess., 1975.

U.S. Congress. Senate. Indian Self-Determination and Education Assistance Act Implementation. Hearings before the Select Committee on Indian Affairs. 95th Cong. 1st Sess. 1977.

U.S. Congress, Senate. Indian Self-Determination and Educational Reform Act - Report of the Committee on Interior and Insular Affairs. Rept. No. 93-686. 93d Cong. 2d Sess. 1974.

U.S. Congress, Senate. Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs on S. 1017 and Related Bills. 93d Cong., 1st Sess., 1973.

U.S. Congress, Senate. Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs on S. 3157 A Bill on the Self-Determination Act of 1972. 92d Cong. 2d Sess. 1972.

Articles

Center for Applied Linguistics, Conference on American Indian Language Clearinghouse Newsletter. Vol. 5, No. 5, (Nov.1977). pp. 8-9.

Congressional Quarterly. Vol. XXX (93d Congress, 1st Sess. 1974) pp. 672-674.

Haas, Theordore A, "The Legal Aspects of Indian Affairs from 1887 to 1957", The Annals of the American Academy of Political and Social Science. Vol. CCCXI, (May, 1957). pp. 12-22.

McNickle, Darcy, "Indian and European: Indian-White Relations from Discovery to 1887." The Annals of the American Academy of Political Science. Vol. CCCXI (May 1937). pp. 1-11.

Taylor, Stuart, "Indians on the Lawpath", The New Republic. April 30, 1977. pp. 16-21.

"The Washington Report", American Indian Journal. Vol. 3, No. 11. (November 1977). pp. 24-27.

Watkins, Arthur V., "Termination of Federal Supervision: The Removal of Restrictions over Indian Property and Person," The Annals of the American Academy of Political and Social Science. Vol. CCCXI, (May 1957). pp. 47-55.

Robert B. Nathan Associates, Inc. "Implementing the Alaskan Native Claims Settlement Act." 1972 (Mimeographed)

Russel, Lawerence P. and Trosper, Ronald L. "Title I of the Indian Self-Determination and Education Assistance Act of 1975." (Mimeographed).

U. S. Department of Interior, Bureau of Indian Affairs. "Statement of Forrest J. Gerard, Assistant Secretary for Indian Affairs, Before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor. U.S. House of Representatives Oversight Hearings on Reorganization of the Bureau of Indian Affairs." Sept. 26, 1977. (Mimeographed).

Appendix A

AUTHORIZING FEDERAL STATUTES PERTINENT TO INDIAN EDUCATION, BUREAU OF INDIAN AFFAIRS

5 USC Appendix Page 530 Reorganization Plan No. 3 of 1950 64 Stat. 1262	All the functions of the Commissioner of Indian Affairs and of the Bureau of Indian Affairs and its employees were transferred to the Secretary of the Interior.
25 U.S.C. § 2 Act of July 9, 1832 4 Stat. 564	DUTIES OF COMMISSIONER OF INDIAN AFFAIRS: The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations. R. S. § 463
25 U. S. C. § 13 Act of November 2, 1921 42 Stat. 208	EXPENDITURE OF APPROPRIATIONS BY BUREAU OF INDIAN AFFAIRS: The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education. For relief of distress and conservation of health. For industrial assistance and advancement and general administration of Indian property. For extension, improvement, operation, and maintenance of existing Indian irrigation systems and for development of water supplies. For the enlargement, extension, improvement, and repair of the buildings and grounds of existing plants and projects. For the employment of inspectors, supervisors, superintendents, clerks field matrons, farmers, physicians, Indian police, Indian judges, and other employees.

For the suppression of traffic in intoxicating liquor and deleterious drugs.
For the purchase of horse-drawn and motor-propelled passenger-carrying vehicles for official use.
And for general and incidental expenses in connection with the administration of Indian affairs. Nov. 2, 1921, c. 115, 42. Stat. 208.

25 U.S.C. § 295
Act of April 30, 1908
35 Stat. 72

SUPERVISION OF EXPENDITURE OF APPROPRIATIONS FOR SCHOOL PURPOSES: All expenditure of money appropriated for school purposes among the Indians, shall be at all times under the supervision and direction of the Commissioner of Indian Affairs, and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time prescribed by him, subject to the supervision of the Secretary of the Interior. Apr. 30, 1908, c. 153. 35 Stat. 72.

Act of June 2, 1924
43 Stat. 253

All non-citizen Indians born within the territorial limits of the U.S. were made citizens of the U.S. and of the States in which they reside.

25 U.S.C. § 297
Act of May 25, 1918
40 Stat. 564

EXPENDITURE FOR CHILDREN WITH LESS THAN ONE-FOURTH INDIAN BLOOD: No appropriation, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and and of the State wherein they live and where there are adequate free school facilities provided. May 25, 1918, c. 86, § 1, 40 Stat. 564.

25 U.S.C. § 282
Act of February 14, 1920
41 Stat. 410

REGULATIONS BY SECRETARY OF INTERIOR TO SECURE ATTENDANCE AT SCHOOL: The Secretary of the Interior is authorized to make and enforce such rules and regulations as may be necessary to secure the enrollment and regular attendance of eligible Indian children who are wards of the Government in schools maintained for their benefit by the United States or in public schools. Feb. 14, 1920, c. 75, § 1, 41 Stat. 410.

25 U.S.C. § 231
Act of February 15, 1929
45 Stat. 1185

ENFORCEMENT OF STATE LAWS AFFECTING HEALTH AND EDUCATION: ENTRY OF STATE EMPLOYEES ON INDIAN LANDS: The Secretary of the Interior, under such rules and regulations as he may prescribe, shall permit the agents and employees of any State to enter upon Indian tribal lands, reservations, or allotments therein (1) for the purpose of making inspection of health and educational conditions and enforcing sanitation and quarantine regulations or (2) to enforce the penalties of State compulsory school attendance laws against Indian children, and parents, or other persons in loco parentis except that this subparagraph (2) shall not apply to Indians of any tribe in which a duly constituted governing body exists until such body has adopted a resolution consenting to such application. Feb. 15, 1929, c. 216, 45 Stat. 1185; Aug. 9, 1946, c. 930, 60 Stat. 962.

25 U.S.C. § 452-457
Act of June 4, 1936
48 Stat. 596

CONTRACTS FOR EDUCATION, MEDICAL, ATTENTION, RELIEF AND SOCIAL WELFARE OF INDIANS:
Section 1: The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education *** of Indians in such State or Territory, through the agencies of the State or

Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education *** of Indians in such State or Territory.

USE OF GOVERNMENT PROPERTY BY CONTRACTORS:
Section 2: The Secretary of the Interior, in making any contract authorized by this Act may permit such contracting party to utilize, for the purposes of said sections, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

RULES AND REGULATIONS: MINIMUM STANDARDS OF SERVICE:
Section 3: The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: Provided, That such minimum standards of service are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein provided, are to be effective.

CONTRACTS FOR THE EDUCATION OF INDIANS-EDUCATION PLAN:
Section 4: The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian students who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives: Provided, That where students participate in such programs, money expended under such contact shall be prorated to cover the participation of only the Indian students.

LOCAL COMMITTEES:
Section 5: (a) Whenever a school district affected by a contract or contracts for the education of Indians pursuant to this Act has a local school board not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such committee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so structured, as the Secretary of the Interior shall by regulation provide: Provided, however, That, whenever a local Indian committee or committees established pursuant to section 305 (b) (2)(B)(ii) of the Act of June 23, 1972 (86 Stat. 235) or an Indian advisory school board or boards established pursuant to this Act prior to the date of enactment of this section exists in such school district, such committee or board may, in the discretion of the affected tribal governing body or bodies, be utilized for the purposes of this section.

(b) The Secretary of the Interior may, in his discretion, revoke any contract if the contractor fails to permit a local committee to perform its duties pursuant to subsection (a).

REIMBURSEMENT FOR CERTAIN OUT OF STATE STUDENTS: Sec. 6. Any school district educating Indian students who are members of recognized Indian tribes, who do not normally reside in the State in which such school district is located, and who are residing in Federal boarding facilities for the purposes of attending public schools within such district may, in the discretion of the Secretary of the Interior, be reimbursed by him for the full per capita costs of educating such Indian students.

25 U.S.C. § 471
Act of June 18, 1934
48 Stat. 986

VOCATIONAL AND TRADE SCHOOLS; APPROPRIATION FOR TUITION: There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools; PROVIDED, that not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs. June 18, 1934, c 576, § 11, 48 Stat. 986.

25 U.S.C. § 309
Act of August 3, 1956
70 Stat. 986

VOCATIONAL TRAINING PROGRAM: ELIGIBILITY: CONTRACTS OR AGREEMENTS: In order to help adult Indians who reside on or near Indian reservations to obtain reasonable and satisfactory employment, the Secretary of the Interior is authorized to undertake a program of vocational counseling or guidance, institutional training in any recognized vocation or trade, apprenticeship, and on the job training, for periods that do not exceed twenty-four months, transportation to the place of training, and subsistence during the course of training. The program shall be available primarily to Indians who are not less than eighteen and not more than thirty-five years of age and who reside on or near an Indian reservation, and the program shall be conducted under such rules and regulations as the Secretary may prescribe. For the purposes of this program the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, or with any private school which has a recognized reputation in the field of vocational education and has successfully obtained employment for its graduates in their respective fields of training, or with any corporation or association which has

an existing apprenticeship or on-the-job training program which is recognized by industry and labor as leading to skilled employment. Aug. 3, 1956, c 930 § 1, 70 Stat. 986.

25 U.S.C. § 304a
Act of July 14, 1956
70 Stat. 536

STUDY AND INVESTIGATION OF INDIAN EDUCATION IN UNITED STATES AND ALASKA; REPORT TO CONGRESS: APPROPRIATIONS: The Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Bureau of Indain Affairs, is authorized and directed to conduct a study and investigation of Indian education in the continental United States and Alaska, including a study and investigation of (1) the education problems of Indian children from non-English speaking homes, and (2) the possibility of establishing a more orderly, equitable, and acceptable program for transferring Indian children to public schools.

The Secretary, in carrying out the provisions of this section, is authorized to enter into contracts in accordance with the provisions of sections 452-455 of this title.

Not later than two years after funds are made available to carry out the purposes of this section, the Secretary shall submit to the Congress a complete report of the results of such study and investigation, together with such recommendations as he deems desirable.

There are authorized to be appropriated such sums as may be necessary for carrying out the purposes of this section. July 14, 1956, c 588, §§ 1-4, 70 Stat. 531.

25 U.S.C. 457
Note
P.L. 93-368, section 203
88 Stat. 2214

After conferring with persons competent in the field of Indian education, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall prepare and submit to the Committees of Interior and Insular Affairs of the United States Senate and House of Representatives not later than October 1, 1975, a report which shall include:

(1) a comprehensive analysis of the Act of April 16, 1934, (48 Stat. 596), as amended, including--

(A) factors determining the allocation of funds for the special or supplemental educational programs of Indian students and current operating expenditures;

(B) the relationship of the Act of April 16, 1934 (48 Stat. 596), as amended, to--

(i) title I of the Act of September 30, 1950 (64 Stat. 1100), as amended; and

(ii) the Act of April 11, 1965 (79 Stat. 27), as amended; and

(iii) title IV of the Act of June 23, 1972 (86 Stat. 235); and

(iv) the Act of September 23, 1950 (72 Stat. 548), as amended.

(2) a specific program to meet the special educational needs of Indian children who attend public schools. Such program shall include, but not be limited to, the following:

(A) a plan for the equitable distribution of funds to meet the special or supplemental educational needs of Indian children and, where necessary, to provide general operating expenditures to schools and school districts educating Indian children; and

(B) an estimate of the cost of such program;

(3) detailed legislative recommendations to implement the program prepared pursuant to clause (2); and

(4) a specific program, together with detailed legislative recommendations, to assist the development and administration of Indian-controlled community colleges.

25 U.S.C. 458
P.L. 93-638, sec. 204
88 Stat. 2214

The Secretary is authorized to provide financial assistance for public and private Indian school construction.

25 U.S.C. 458a
P.L. 93-638, sec. 205
88 Stat. 2216

No funds from any grant or contract pursuant to this title shall be made available to any school district unless the Secretary is satisfied that the quality and standard of education including facilities and auxiliary services, for

Indian students enrolled in the schools of such district are at least equal to that provided all other students from resources, other than resources provided in this title, available to the local school district.

25 U.S.C. 458d
P.L. 93-638, sec. 208
88 Stat. 2216

The Secretary is authorized and directed to provide funds, pursuant to this Act; the Act of April 16, 1934 (48 Stat. 596), as amended; or any other authority granted to him to any tribe or tribal organization which controls and manages any previously private school. The Secretary shall transmit annually to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a report on the educational assistance program conducted pursuant to this section.

Notes on Congressional Committees serving the Bureau of Indian Affairs
APPENDIX B

In the study of Congress as a Policy Making Institution, the literature reviewed in the week of October 24, 1977 concerning the Congressional Committee System was found to be of special interest. The writer is an employee with the Department of Interior and its Bureau of Indian Affairs. Two of the six committees that Fenno[1] chose to examine in the House of Representatives have special significance for the Bureau of Indian Affairs. Until recently, the Bureau of Indian Affairs, like the entire Department of Interior, was served by the Interior Committee. In 1975, the substantative responsibilities for the education program of the Bureau of Indian Affairswere transferred from the Interior Committee to the Committee on Education and Labor in the House of Representatives.

Thus, in this review of the literature special attention was given to the goals of the members of these committees, some of the differences in the committees and some of the implications these might have for Indian Education, as well as the total program of the Bureau of Indian Affairs.

General Goals

Fenno notes in his overall view that a Congressman is a member of the House of Representatives first and a committee member second. Also, as a Congressman, he holds certain political goals which he will seek to further through Committee activity. He further identifies goals espoused by members of the House as re-election, influence within the House and good public policy. It is recognized that while

---

1. Richard F. Fenno. Congressmen in Committees, (Boston: Little, Brown and Co., 1973) pp. V-302.

all Congressmen probably hold all three goals, each has his own mix of priorities and intensities which may change with time. Feno further holds that each House Committee does not provide an equal opportunity to pursue these goals. Thus, House Members generally seek to match their individual pattern of operation to thediverse pattern of oport-tunity presented in the House Committees.

Some Differences Identified

In seeking membership on the Interior Committee, Congressmen have the main goal of helping their constituents and thereby insuring their re-election. This Committee has special attraction for western Congressmen because of the Interior Committee's jurisdiction over their most pressing constituency problems. Conversely, Fenno asserts that members of the Education and Labor Committee express a set of individual goals which emphasize a strong personal interest in their Committee's subject matter and helping to make good public policy.

Fenno ranked the six Committees he studied according to the percentage of members holding more than one committee assignment. He felt that this provided a crude indicator of House judgments concerning relative committee importance. The ranking from lowest to highest was: Appropriations, Ways and Means, Foreign Affairs, Education and Labor, Interior and Post Office.[2] For the period of 1955-1966, Fenno shows that for prior House service at the time of appointment to the six committees, member of Interior and Insular Affairs and Education and Labor had the least prior service with .80 for Interior and Insular Affairs and .78 for Education and Labor.[3]

---

2. Ibid. p. 16.

3. Ibid. p. 19.

Fenno endeavors to answer the question of which outside groups affect their ability to make public policy contributions. The answer from Education and Labor Committee members would be: Whatever groups dominate the policy coalitions confronting the Committee. He further notes the high level of clientele involvement in this Committee. He states that the interest, if not the influence of the labor organizations, has come to be matched by that of education-oriented groups such as the National Education Association. Clientele groups, the Executive Branch and House members have been quick to use political party resources to fight this battle in nationally controversial policy areas according to Fenno.

Conversely for the Interior Committee member the question posed concerns the outside groups with the greatest capacity for affecting the members re-election. The answer being, of course, the constituents who are actively interested in a member's Committee activity. Fenno also states that the concerns of political party leaders are, by and large, not drawn to subjects considered by this Committee.

Fenno defines strategic premises as agreements designed to implement through committee action, a given set of member goals in a given context of environmental constraints.[4] He contrasts Education and Labor's strategic premises with those of the Interior Committee. He finds both shared the problem of being unrepresentative of the parent chamber. Also, he finds that the Interior Committee is concerned about this and incorporates a good deal of sensitivity to the House in its strategic thinking. He says that by comparison, Educa-

---

4. Ibid. p. 46.

tion and Labor does not, but rather, remains distinctively oriented toward its external coalition partners rather than its House collegues.[5]

In decision making, both Education and Labor and Interior appear to operate with an active subcommittee structure. According to Fenno the Interior Committee handles more pieces of legislation than any other committee in the House. He expresses the opinion that Interior probably did the best job of them all for efficient handling of the work load. New members were reported to be active in subcommittee work on the Education and Labor Committee. It is reported that such subcommittees are not autonomous and, unlike Interior, carry little weight with the full Committee. He finally notes that the Interior Committee along with Ways and Means and Appropriations are more autonomous decision makers than Education and Labor, Foreign Affairs and Post Office.

Fenno reports that political scientists typically comment on the singular lack of Education and Labor Committee influence on decision making. However, such views are not shared by members of the Committee who view their participation in the process, their limited contribution as neither peculiar nor a surrender but rather the normal operation of a highly permeable committee.

Concerning the Interior Committee, Fenno finds that both the Committee's decision rules and its decision making processes emphasize success on the House floor. Interior members must get their bills passed if they are to reap electoral benefits. Fenno notes that their regional unrepresentativeness threatens passage. Thus, they cultivate House confidence by the careful, orderly processing of bills, the minimization of partisanship and the emphasis on specialized

---

5. Ibid. pp. 78-79.

expertise. Also, there is emphasis on independence from the Executive, an internal effort to conciliate non-western members of the Committee and an external effort to portray subsequent committee decisions as national in outlook.[6]

Fenno characterizes House Committees as two types with no committee falling completely into one category or the other. These types are the permeable type on one hand and the corporate type on the other. Permeable committees tend to be more responsive but less influential than corporate committees. Education and Labor is placed in the permeable category. Interior is categorized as a corporate type which is described as the opposite---less responsive but more influential.

Some Implications

Based on Fenno's account, it would appear that the involvement of the Education and Labor Committee in the Education Program of the Bureau of Indian Affairs would have manifold implications. This would stem from a recognition of the differences in goals being sought by the individual Congressmen on the Committee and differences in the total committees. It would appear that these implications would include the relationship of the Bureau's program to educational efforts nationally. It would seem to be advantageous for tribes served by the Bureau and educators in Indian Affairs to affiliate with national educational groups. Such interest could augur well for educational efforts. At the same time a problem could exist. Education does not operate in a vaccum. It would appear vital that a means be found to coordinate work with both committees so that Indian tribes served by

---

6. Ibid. pp. 260-261.

the Bureau could have the means of achieving a total, coordinated socio-economic program which would enable the Indian people to continue to progress on all fronts.

Examples of Current Legislation of Interest to Indian Americans.
APPENDIX C
(taken from the Washington Report)

The Washington Report

LEGISLATION

The Washington Report identifies legislation of interest to Indian people. Legislation is classified in several categories: introductions, bills that have been introduced in the House or the Senate, then referred to one or more committees; hearings and committee reports, meetings and reports of committees or subcommittees to hear and report testimony by supporters and opponents of a particular bill; bills passed by one or both chambers of Congress; and public laws, bills passed by both chambers and signed by the President (or, infrequently, when a bill is vetoed by the President and is repassed in both chambers by a two-thirds majority).

INTRODUCTIONS

H.R. 8910, S.2000

A bill to provide for the use and distribution of funds appropriated in satisfaction of the judgment awarded to the Seminole Indians in dockets 73 and 151 before the Indian Claims Commission.

By Rep. Watkins, August 5; Sen. Bartlett, August 3.

To House Committee on Interior and Insular Affairs and Senate Select Committee on Indian Affairs.

This bill provides for the division of the funds awarded the Seminole Indians between members of the Seminole Nation of Oklahoma and the Seminole Indians of Florida. The division shall be based upon the number in each group in 1914.

The share of the Seminole Nation of Oklahoma shall be distributed and used as follows:

(a) 64 percent will be distributed as per capita payments;
(b) 20 percent shall be invested by the Secretary on behalf of tribe. The tribal governing body shall use the interest and investment income for education services, community development, health services, tribal executive operations, land acquisition and development, social services, and other tribal social and economic projects. This portion of the principle share will not be available for per capita payments.
(c) 16 percent shall be invested by the Secretary, with earned interest distributed through periodic dividend payments.

The total share of the Florida Seminole shall be invested by the Secretary until rolls for the Seminole, the Miccosukee, and the unaffiliated Seminole of Florida are established based on the Reconstructed Florida Seminole Census of 1914 or any later Florida Seminole censuses.

H.R. 9175

A bill making laws and regulations pertaining to fishing and hunting of Indian

tribes other than for ceremonial purposes, within the State of Washington.

By Rep. Cunningham, September 16.

To Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

The "Washington State Fishing and Hunting Equal Rights Act of 1977" proposes that hunting and fishing laws of the state shall apply to Indians as well as other persons. Exception will be made for ceremonial fishing and hunting. Cunningham earlier introduced H.R. 9054, "Native American Equal Opportunity Act." (See American Indian Journal, Vol. 3, No. 10)

H.R. 9173

A bill to authorize the enrollment of qualified Klamath Indians in Bureau of Indian Affairs residential schools.

By Rep. Ullman, Sept. 16.

To Committee on Education and Labor.

This bill asserts that any person who is at least one-quarter Klamath Indian blood may enroll in any BIA school and receive Bureau scholarships despite acts concerning the termination of the Klamath Tribe.

S. 2130

To amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units.

By Sen. Packwood and Sen. Domenici, September 22.

To Committee on Finance.

H.R. 9234

A bill for the relief of the Alabama-Conshatta Tribes of Texas and the Conshatta Tribe of Louisiana.

By Rep. Breaux, September 21.

To Committee on Interior and Insular Affairs.

This bill authorizes payment to the Alabama-Conshatta Tribes as a full settlement of all claims for lands taken by the United States. The payment will be determined by the provisions of the Indian Claims Commission Act (section 70 of title 25) and will not compensate for the time-lapse in the settling of the claim.

H.R. 9158

A bill to provide for grants to tribally controlled community colleges.

By Rep. Blouin, September 16.

To Committee on Education and Labor.

The Tribally Controlled Community College Assistance Act hopes to attain a higher education of the Indian community. The bill is written to re-assert the federal government's trust responsibility toward providing educational programs for Native Americans.

The legislation is a result of research and discussion with the Indian community. The staff of the Education and Labor Committee, headed by Congressmen Blouin and Quie, spent over 11 weeks in the field studying the educational needs of Native Americans. They found that an understanding of Indian history (both as it pertains to the development of Indian life, and as it comprises the historical relationship between the Indian and the federal government) is necessary in order to legislate education policy for Indian people.

To insure continued and expanded educational opportunities for Indian students, the bill provides grants for the operation and improvement of tribally controlled community colleges. The financial assistance is to assure tribal control over its college's policies. After applications for funds are approved by the Secretary of the Interior, grants will be channeled directly to the institutions.

Twenty five million dollars has been authorized for each of the first two fiscal years following enactment and $30 million in the third fiscal year. For operation and maintenance each community college will receive $125,000 plus $3,500 for each full-time student for each academic year. There is also an authorization of $3 million for each of the three fiscal years for technical assistance to these schools.

Additionally, the bill provides grants for the construction of academic facilities. These funds are not to be used by the Navajo Tribe. The construction needs of the Navajo Tribe are addressed in a separate title of the bill. Since the Navajo Community College Act was passed in 1971, the tribe has already established a community college. The bill authorizes a total of $60 million for the construction needs of the Navajo Community College.

Blouin feels that the passage of this legislation will help American Indians to better equip themselves to make the decisions that will insure their economic existence and cultural heritage.

HEARINGS

H.R. 9157

A bill to amend Public Law 81-874, to provide for the basic education of Indian children, and to provide improvements in the delivery of other educational services for Indians.

By Rep. Blouin, September 16.

To Committee on Education and Labor.

The Indian Basic Education Act makes provisions to equalize education for Indian children. In addition, it provides that the educational programs and services be designed to meet the special needs of Indian children. Any extensions of local school districts into BIA districts will have to be approved by the tribe who is affected by the extension. The BIA will be given the necessary funds and one year to implement the new academic standards. The Assistant Secretary will make annual reports to Congress on the program's progress.

A hearing was held on September 26 by the Subcommittee on Elementary, Secondary and Vocational Education. Testimony was heard from representatives of the BIA.

H.R. 3787

A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims regarding land claims; and to authorize the tribe to purchase and exchange lands in the states of New Mexico and Arizona.

By Rep. Runnels, February 22.

To Committee on Interior and Insular Affairs.

The Committee met and reported this bill favorably to the House on September 21. (More information on this bill can be found in American Indian Journal, Vol. 3, No. 3, S.482.)

H.R. 2719

A bill to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

By Rep. Lujan, January 31.

To Committee on Interior and Insular Affairs.

On September 19 after a small technical amendement was made, this bill was passed by the House. On September 23 it was sent to the Senate Select Committee on Indian Affairs.

S. 785

A bill to declare that all right, title, and interest of the United States in 2,640 acres are hereby held by the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes.

By Sen. Cannon, February 24.

To Select Committee on Indian Affairs.

Sen. Abourezk made a committee report on September 9 and another on September 27 which was referred to the Committee on the Budget. He reported an original resolution (S. Res. 270) that a waiver of Section 402 (a) of the Congressional Budget Act of 1974 is needed for the consideration of S. 785. The waiver is necessary because the 1974 act requires that all authorizations for appropriations for fiscal year 1978 be submitted by May 15, 1977. Because the Senate Select Committee on Indian Affairs is a new committee which was not in full operation at that time, it could not have met the May 15 deadline. (More information on this bill can be found in the American Indian Journal, Vol. 3, No. 5, H.R. 4980).

S.1509

A bill to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

By Mr. Domenici, May 13.

To Select Committee on Indian Affairs.

This bill was passed by the Senate on September 29.

H.R. 4153

A bill to allow federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application

of certain federal laws allowing employment preference to Indians.

By Rep. Steed, February 28.

To Committee on Post Office and Civil Service.

For background on this bill, see American Indian Journal, Vol. 3, Nos. 4, 5 and 8. On September 19 the Subcommittee on Compensation and Employee Benefits met and approved for full committee action a clean bill in lieu of H.R. 4153, to allow federal employment preference to certain employees of the Bureau of Indian Affairs and the Indian Health Service.

S. 1633

A bill to provide for the extension of certain federal benefits, services, and assistance to the Pascua Yaqui indians of Arizona.

By Sen. Deconcini, June 7.

To Select Committee on Indian Affairs.

The committee concluded hearings on this bill on September 27. It received testimony from Anselmo Valencia, Pascua Yaqui Association, and David Ramirez, Pascua Yaqui Council, both of Tucson, Arizona. (For further information on this bill, see American Indian Journal, Vol. 3, No. 7.)

S. 661

Indian Tribal Restoration Act of 1976. A bill to restore federal recognition to four Oklahoma tribes: Modoc, Wyandotte, Peoria, and Ottawa.

By Sen. Bellmon, February 7.

To Committee on Interior and Insular Affairs.

On September 27, the committee received testimony to restore federal recognition of four Oklahoma Indian tribes. Speaking at the hearing were Forrest Gerard, assistant secretary, and Ralph Reeser, legislative council, both of the Department of the Interior; and Robert Alexander, Intertribal Council, Jack Robison, Mayor of Miami, Chief John Folis, Modoc Tribe, Chief Louis Burlow, Ottawa Tribe, and John Ghostbear, all of Miami, Oklahoma. (For background information on this bill see American Indian Journal, Vol. 3, No. 3.)

H.R. 6348

A bill to convey to the Ely Indian Colony the beneficial interest in certain federal land.

By Mr. Santini, April 19.

To Committee on Interior and Insular Affairs.

On September 23, Rep. Udall submitted a report (H. Rept. 95-619) to accompany this bill to the House. The committee made a technical amendment and recommended that the bill pass. The committee noted that the enactment of the bill will require no federal expenditure. (Further information on this bill has been printed in the American Indian Journal, Vol. 3, No. 3, S. 103.)

H.R. 7259

Siletz Indian Tribe Restoration Act. A bill to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, and to restore to federally recognized American Indian tribes and their members.

By Rep. AuCoin, May 18.

To Committee on Interior and Insular Affairs.

The committee met and gave a favorable report of this bill to the House on September 14. It recommended that the bill be passed with amendments. One amendment clarifies that the legislation does not grant any hunting or fishing rights and that it does not establish or restore a reservation for the Siletz. A second amendment makes it clear that the Interim Council is eligible to enter into contracts and receive grants under the Indian Self-Determination and Education Assistance Act of 1975. The Council will have the authority to deal with the Secretary of the Interior and the Secretary of Health, Education, and Welfare. The third amendment establishes the committee's understanding that the reservation of the Siletz Tribe was abolished by the Termination Act. (Background information in this bill can be found in the American Indian Journal, Vol. 3, Nos. 7 and 9.)

H.R. 2664

A bill to amend the Indian Claims Commission Act of August 13, 1946.

By Rep. Abdnor, January 31.

To Committee on Interior and Insular Affairs.

The bill was debated on the House floor on September 27 and failed to pass under

suspension of the rules, which requires a two-thirds majority for the bill's passage. Summaries of various testimony follow.

Rep. Roncalio offered the motion that the House suspend the rules and pass the bill, which would allow the Sioux claim to the Black Hills to be heard in the Court of Claims. Roncalio said that he believed the bill would "prevent serious miscarriage of justice. H.R. 2664 directs the Court of Claims to review, on the merits, a decision of the Indian Claims Commission that the United States took the Black Hills area of the Great Sioux Reservation from the Sioux Nation in violation of the fifth amendment of the Constitution."

Representatives Johnson, Meeds, Udall, and Abdnor (who introduced the bill) also spoke in favor of the bill. Several times they emphasized that this legislation would not decide the question of whether or not the Sioux had a fifth amendment taking, but would waive certain technical legal defenses allowing the Court of Claims to review the issue on its merits. Johnson summed up their position: "All we are saying is that the Court of Claims should consider whether or not the interest which the Indian Claims Commission awarded the Indians should be given to them. That is all this amounts to."

Rep. Cohen led the opposition. He held the bill to be inconsistent with earlier legislations (Public Law 95-69 and Public Law 95-103). He said, "the administration believes that a federal policy towards unresolved Indian claims is a necessary element for an overall federal policy towards Indian affairs. Since the administration has not yet had the opportunity either to develop its overall policies on Indian claims, we strongly recommend that the Congress defer action in H.R. 2664."

Johnson feels that the Sioux case is a unique one and if this bill is passed it will serve as an incorrect precedent for later legislation. He pointed out that his "is a moral claim rather than a legal one."

Also claiming the issue to be a moral one, Rep. Wiggins said, "The appeal...is not one of law. The appeal is to the good conscience of this House. Frankly, my conscience is not offended by denying the payment of interest amounting to about five or six times the principal to a claimant when the United States has deferred payment in accordance with law." He also suggested, as Johnson had, that the proper remedy was a private bill so that it would not set a precedent for other bills.

Roncalio argued that a private bill was not the appropriate method for the treatment of Indian claims. He said that private bills resulted in "the old tyranny of the run-around."

Getting away for legalities, Rep. Meeds said that "passage /of the bill/ will raise the long and suffering hopes of the vast majority of the Sioux people who have kept faith in the system. And, just as importantly to the Members in this House, it will write a more honorable finish to a chapter in American history that has had less than an honorable beginning."

The motion that the House suspend the rules and pass the bill H.R. 2664, as amended, was put to a vote and did not pass. Further proceedings on the motion were postponed. It will now go onto the House calendar as a regular bill and will probably not come up until after January 1, 1978.

S. 666

A bill to allow federal employment preference to certain employees of the Bureau of Indian Affairs and the Indian Health Service.

By Sen. Stevens, February 10.

To Committee on Government Affairs.

The Subcommittee on Civil Service and General Services concluded hearings on this bill to provide early retirement benefits for non-Indian employees of the BIA and the IHS on September 13. It received testimony from Richard Hite, Deputy Assistant Secretary of Interior; Jule Sugarman, Commissioner, Civil Service Commission; Dr. Emery Johnson, Director of the Indian Health Service, Department of Health, Education and Welfare; Clifford I. Gould, Deputy Director, General Accounting Office; Donald Fosdick, National Council of Bureau of Indian Affairs and Indian Health Service Locals, Washington, D.C.; and James Pierce, National Federation of Federal Employees, Washington, D.C. (Background information

on similar bills is available in American Indian Journal, Vol. 3, Nos. 4 and 6.

H.R. 3377

A bill to authorize the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation.

By Rep. Steed, February 9.

To Committee on Interior and Insular Affairs.

This bill was reported out of committee of the whole House on the State of the Union with the recommendation that it be enacted. (For background information on this bill see American Indian Journal, Vol. 3, Nos. 4 and 7).